

# **Waste Evaluation and Enforcement Branch Staff Report**

## **Summary of the City of Wasco's Compliance Review and Consideration of the Issuance of Compliance Order CO 016-001**

### **SUMMARY**

The Department of Resources Recycling and Recovery (Department) conducted a review of the City of Wasco (City) implementation of its Source Reduction and Recycling Element (SRRE) programs and compliance with California Public Resources Code section (PRC) 41780. Department staff also reviewed the City's implementation of California's Recycling of Commercial Solid Waste, referred to as the Mandatory Commercial Recycling (MCR) law (PRC section 42649, et al.), which became effective on July 1, 2012.

Based on this review, Jurisdiction Compliance Unit (JCU) staff has found that the City is not adequately implementing its SRRE and failing to fully comply with the requirements of the MCR law. Based on JCU staff observations and information gathered, deficiencies in program implementation have been identified to include, but are not limited to:

- Residential Diversion program;
- Commercial Diversion program (including the multi-family diversion efforts);
- Mandatory Commercial Recycling program; and,
- Education and outreach efforts related to these and other City programs and efforts.

In addition to evaluating the City's programs, JCU staff considered the per capita disposal rate for the City. The City's per capita disposal or disposal target is 4.8 pounds per person per day. From 2007 to 2014, the City's per capita disposal ranged from 3.6 pounds per person per day to 4.2 pounds per person per day. (For a more detailed breakdown of the City's per capita disposal from 2007 to 2014, refer to Table 1.) During the review period, the City achieved its per capita disposal rate; however, as discussed below, per capita disposal is only a factor to be considered in evaluating program implementation and the City's performance. It is not determinative of compliance with the diversion requirement of PRC section 41780.

Based on JCU staff's review and analysis, JCU staff recommends that a Compliance Order (CO) be issued. As part of the CO, the City would be directed to develop a Local Implementation Plan (LIP). The LIP will identify a strategy for program enhancements, and local actions necessary to enable the City to achieve the diversion requirements of PRC section 41780 and meet the requirements of the MCR law, PRC section 42649, et al.

## **I. JURISDICTION COMPLIANCE HISTORY**

The City does not have any prior CO's, nor has it filed for extensions to improve diversion programs to meet the diversion requirement of PRC 41780.

Based on historical records and previous California Integrated Waste Management Board findings, the City was included in the four-year Jurisdiction Review cycle. This, in part, was based on the City's reported 64 percent diversion rate in 2006.

## **II. BACKGROUND**

### **Statutory Requirements for Department Review and Enforcement Action**

#### **Evaluation of SRRE Implementation**

PRC section 41825 requires the Department to review whether each jurisdiction has complied with the diversion requirement of PRC section 41780 by implementing, or making a good faith effort to implement, its SRRE-selected diversion programs. For purposes of this evaluation, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement the programs identified in its SRRE, or alternate programs or activities that achieve the same or similar results.

PRC section 41821 requires each city, county, and regional agency (jurisdiction) to annually report to the Department on its progress in implementing its SRRE-selected programs, as well as its progress toward achieving the diversion requirements of PRC section 41780.

PRC section 41821 requires the Department to review a jurisdiction's Annual Report and to notify the jurisdiction of any additional information required within 120 days of receipt. Furthermore, PRC Section 41825 requires the Department to review each jurisdiction's SRRE, using the information included in the jurisdiction's Annual Reports and any other relevant information, at least once every two or four years, depending on certain specified criteria. As a result of the above reviews, a jurisdiction may be selected for a Jurisdiction Review, which is the Department's independent in-depth evaluation of a jurisdiction's progress in implementing its SRRE-selected programs. As a result of this review, the Department may find that a jurisdiction has adequately implemented programs; that a jurisdiction has made a "good faith effort" to implement programs; or, that a Compliance Order should be issued to a jurisdiction that has failed to adequately implement its programs.

In assessing program implementation, the Department considers as a factor whether the jurisdiction has achieved its per capita disposal rate. However, a jurisdiction's achievement of its per capita disposal rate is not determinative of compliance with the diversion requirements of PRC Section 41780 (See PRC section 41780.05 and PRC section 41825 (e)(5)).

### **Evaluation of MCR Law Compliance**

PRC section 42649 requires that on and after July 1, 2012, each jurisdiction shall implement a commercial solid waste recycling program appropriate for that jurisdiction designed to divert commercial solid waste from businesses subject to PRC section 42649.2, whether or not the jurisdiction has met the requirements of PRC section 41780. Each jurisdiction is also required to report the progress achieved in implementing the MCR law, including education and outreach, identification, monitoring, and if applicable, enforcement efforts, by providing updates in the annual report required by PRC section 41821.

PRC section 42649.3 requires the Department to review whether a jurisdiction has complied with, or made a good faith effort to comply with, the requirements of the MCR law. For purposes of this evaluation, “good faith effort” means all reasonable and feasible efforts by a jurisdiction to implement its commercial recycling program in accordance with the MCR law (See PRC Section 42649.3(i)).

Pursuant to PRC section 42649.3 (g), the Department is to evaluate a jurisdiction’s compliance with the MCR law as part of the Jurisdiction Review required by PRC section 41825. The Department may also evaluate whether a jurisdiction is in compliance at any time that the Department receives information that the jurisdiction has not implemented, or is not making a good faith effort to implement its commercial recycling program (See PRC section 42649.3(h)).

In determining compliance with this requirement, the Department’s evaluation may include, but is not limited to, the following factors:

- The extent to which businesses have implemented recycling programs (Measurement of this can be based on the amount of disposal that is being diverted, and the number of businesses that are subscribing to service);
- The recovery rate of the commercial waste from the material recovery facilities that are utilized by the businesses;
- The extent to which the jurisdiction is conducting education and outreach to businesses; and
- The extent to which the jurisdiction is monitoring businesses, and notifying those businesses that are out of compliance.

### **Department Requirements Regarding Compliance and Enforcement**

In determining whether a jurisdiction has made a good faith effort to implement diversion programs in its SRRE, as well as comply with the requirements of the MCR law, the Department shall consider the enforcement criteria included in its enforcement policy that was amended and approved in June 2015 (PRC section 41825(e)(3)). If a good faith effort cannot be determined, the department may issue a Compliance Order.

Prior to issuing a notice of intent to issue a Compliance Order, PRC section 41825 requires the Department to confer with a jurisdiction for at least 60 days. PRC section

41825 also requires the Department to issue a notice of intent to issue a Compliance Order not less than 30 days prior to a hearing to consider issuing the Compliance Order. If a jurisdiction has not implemented all of its SRRE-selected programs and/or complied with the requirements of the MCR law, the Department may still decide not to commence compliance action if it finds that the jurisdiction has made a good faith effort to implement its SRRE.

Fines of up to \$10,000 per day may be levied if the provisions of the Compliance Order and schedule are not met by the jurisdiction (PRC section 41850).

### **The Department's Review Process**

The Local Assistance and Market Development (LAMD) staff's 2007-2011 review determined that the City may have gaps in SRRE programs and MCR law implementation. Based on this determination, LAMD referred the file to JCU for an independent and in-depth Jurisdictional Review. On April 11, 2013, LAMD notified the City that an independent review of the City's diversion programs was necessary (Attachment 1). On April 15, 2013, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2). When JCU staff began its conferring period, the MCR law was already in effect. Therefore, during this time, JCU staff also reviewed the City's implementation of the MCR law as part of JCU staff's review of the City's SRRE diversion programs.

JCU conducts an independent in-depth jurisdictional review which extensively reviews and analyzes data to understand a jurisdiction's waste diversion efforts being implemented. The review, which is typically conducted over a minimum of one year, includes, but is not limited to:

- Communications with the jurisdiction (phone calls, in person meetings, emails, and letters) to learn about the community and the diversion programs offered.
- Requesting approval from the jurisdiction to communicate with any haulers (whether under contract or not) on behalf of the jurisdiction to obtain records related to total number of accounts serviced, total tons of collected recyclables and waste from the residential and non-residential sectors.
- Identification of any seasonality factors that may be impacting a jurisdiction's waste diversion programs.
- Residential and commercial cart and bin field evaluations.
- Observing and evaluating a jurisdiction's recycling and waste loads at the material recovery facility(ies), transfer station(s), and landfill(s).
- Tracking efforts to amend or award franchise agreements or other contracts that can have an impact on a jurisdiction's implementation of diversion programs.

In April 2013, JCU began its independent review of the City's program implementation and diversion rates, using available information from the City's annual reports, waste hauler tonnage reports, and Department databases. This review covered both the residential sector and the non-residential sector and included visits with City staff, the City's haulers, City's facilities, and the Shafter-Wasco landfill.

Concurrently, since November 2013, the City was working on a Request for Proposal (RFP) for the collection of recyclables. Working with the City, JCU staff gave the City additional time to process and implement the improvements in the City's diversion programs through the RFP. In December 2015, the City told JCU staff that they would no longer be pursuing a RFP for the collection of recyclables. While awaiting a response from the City on the RFP and after the response was received, JCU staff conducted a total of five (5) field visits to evaluate the City's diversion programs.

### **III. ANALYSIS**

#### **Overview of Jurisdiction Demographics and Infrastructure**

##### **Existing Jurisdiction Conditions**

The City is an agricultural community in Kern County. According to the 2010 U.S. Census Bureau, the City encompasses approximately 9.43 square miles. According to the State of California's Department of Finance, the City's population in 2014 was 26,159. Within the City's approved Source Reduction and Recycling Plan (dated 1990), 62.34 percent of total waste generated is from the residential waste stream and 37.66 percent is from the non-residential waste stream.

The City hosts Wasco State Prison (prison). The prison falls under the State Agency Integrated Waste Management Plan law (PRC Section 42920-42927) meeting the definition of "large State facility". JCU staff conducted a limited review of the prison finding:

- The population of non-employees at the prison in 2014 was 5,014.
- The prison's annual reports show the facility is in compliance with the law.
- JCU staff's limited review of the prison's waste stream found waste loads at the Shafter-Wasco Landfill to contain little to no recyclables.

Table 1 shows the City's per capita disposal rate from 2007-2014. The table presents the City's PPD in two ways: one includes all disposal, including the prison's population and waste, the other excludes the prison population and waste.

Table 1

	<b>Calculated Disposal Rate (lbs./person/day)</b>		
<i>50% per Capita Disposal Target (2007)</i>	<i>Reported Rate by Year PPD*</i>		<i>Calculated Rate without Prison PPD</i>
4.8	2014	3.9	4.9
4.8	2013	3.9	4.8
4.8	2012	4.0	4.9
4.8	2011	4.0	5.4
4.8	2010	3.9	5.1
4.8	2009	3.6	4.7
4.8	2008	3.8	5.0
4.8	2007	4.2	5.5

\*Pounds per person per day

### **Summary of City's Solid Waste Infrastructure and Materials Flow**

When JCU staff's independent review started, the City had three haulers operating within the City. The City's Sanitation Department provides all trash and green waste collection. Operating under a non-exclusive franchise agreement, the other two haulers, American Refuse and Sunset Waste, provide recycling services. The three haulers handle materials in the following manner:

- City of Wasco Sanitation Department:
  - Both residential and commercial waste is taken to Shafter-Wasco Landfill, located in Shafter.
  - Residential curbside green waste is taken to the Shafter-Wasco Landfill, where it is processed, and taken to Synagro, located in Taft, for composting.
- American Refuse:
  - Recyclables are taken to American Refuse's Material Recovery Facility (MRF), located in Wasco.
  - Construction and Demolition (C&D) debris is taken to the Recycling Park at the Shafter-Wasco Landfill, where it is processed.
- Sunset Waste:
  - Recyclables are taken to Sunset Waste's MRF, located in Delano.

*Note: On December 10, 2015, JCU staff was notified that Sunset Waste discontinued services in Wasco. The City is reporting that American Refuse is now providing all recycling services in the residential and commercial sectors, under the same non-exclusive franchise agreement. JCU staff have confirmed this with the hauler. The analysis below reflects the observations and supporting documentation collected both before and after Sunset Waste discontinued services.*

## **Disposal**

Waste in all sectors (residential and non-residential) is collected by the City's Sanitation Department. The City is reporting 100 percent participation in the mandatory waste collection services. Residents are provided a 96-gallon cart for waste. Some residents share a 300-gallon (which is equivalent to 1 ½ yards) waste bin. Waste collection is once a week. Commercial accounts vary between 300-gallon, three cubic yard, and four cubic yard bins. Waste collection varies depending on the customer's needs.

## **JCU Staff Findings and Observations of Diversion**

The following are JCU staff's observations and findings of the City's diversion efforts. JCU staff's field visit photo report (Attachment 3) contains visual documentation of many of the observations detailed below.

*Note: As discussed earlier, since November 2013, the City has been working on the development and awarding of a recycling services contract. In December 2015, the City told JCU staff that they would no longer be pursuing a RFP for the collection of recyclables. This has been impacting the City's diversion programs.*

### **Residential Diversion Program**

#### *About the Program:*

**Curbside** - The City's residential curbside recycling program is mandatory (as outlined in the City's Ordinance Section 8.12.801 Curbside Residential Recycling). Instead of providing a citywide distribution of recycling bins, the City is allowing residents to choose to subscribe to recycling services. Those residents that do subscribe to services are provided a 90-gallon cart. Collection of recyclables is weekly. The City reports that the following materials are accepted for recycling: paper, plastics, aluminum, glass, tin, cardboard, plastic film, and chipboard.

**Self-Haul** - At the Wasco-Shafter Landfill there is a diversion area for recyclables and green waste. The diversion area has signage directing customers to the proper areas to unload their divertible materials. Based on reports from the City and County for 2013, the use of this area by City residents and commercial businesses accounts for approximately three percent of reported diversion.

#### *Facts and Observations:*

- The City has reported having 3,245 single family homes that receive curbside solid waste collection. Of these, 50 subscribe to recycling services. This is a participation rate of 1.5 percent.
- Table 2 presents the subscription to recycling services, as reported by the City, from 2009 through 2014.

Table 2

<i>Residential Participation by Year</i>	<i>Number of Households Participating</i>
2007	N/A*
2008	N/A*
2009	4
2010	42
2011	42
2012	46
2013	48
2014	50

\*Voluntary recycling services were not offered until 2009

- JCU staff observed recycling carts to contain well-sorted, high-value recyclables. There was approximately a 5 percent contamination rate in the recycle carts.
- Since JCU staff was able to effectively evaluate the curbside recycling carts, JCU staff did not observe the recyclables, which were being transported to the MRF in Delano. JCU staff concluded that it was not necessary since:
  - JCU staff was able to verify low contamination in the field.
  - The commingled recycle loads from Wasco were mixed with a multitude of stops prior to delivery at the MRF in Delano.
- JCU staff observed residential curbside waste loads at the landfill containing up to approximately 30 percent divertible materials (recyclables and green waste).
- In 2013, the City put out a RFP for the collection of recyclables and green waste. The City reported that the RFP combining recycling and green waste was not feasible.
- In 2014, the City put out another RFP for the collection of recyclables including residential (and commercial). The RFP would have expanded the residential services implementing the City's mandatory residential recycling ordinance. However, the City was not able to execute this RFP. In December 2015, the City told JCU staff that they would no longer be pursuing a RFP for the collection of residential recyclables.
- On August/September of 2015, American Refuse became the City's sole provider of residential recycling services. JCU staff's follow-up analysis has found that the services described above are continuing at the same levels.



*Conclusions:*

*The City's Electronic Annual Report (EAR) does not have a curbside residential diversion program selected. This is inconsistent and does not support the City's ordinance for mandatory curbside residential recycling. Of those households that participate in the program, JCU staff found little contamination; however, participation in the mandatory program is currently 1.5 percent. Based on the City's release of the RFP in 2013 and 2014, the City identified a need to expand the collection of recyclables throughout the City.*

*JCU staff saw the successful award of the RFP to be very beneficial to the City in achieving effective implementation of the City's mandatory residential recycling ordinance. However, the City has selected to not move forward with the awarding of a RFP and, to date, has not provided any alternative efforts that supports implementation of the City ordinance or could achieve an equivalent benefit.*

**Commercial Diversion Program**

*About the Program:*

**On-Site Collection-** The City's commercial recycling program is mandatory (as outlined in the City's Ordinance Section 8.12.802 Commercial Recycling). JCU staff observed four to six cubic yard recycling bins at different businesses throughout the City. The level and frequency of recycling service varies upon an account's needs. Materials accepted for recycling focus on cardboard. The hauler offers an expanded services which includes: paper, plastics, aluminum, glass, tin, plastic film, and chipboard.

**Self-Haul-** At the Wasco-Shafter Landfill, there is a diversion area for recyclables and green waste. The diversion area has signage directing customers to the proper areas to unload their divertible materials. Based on reports from the City and County for 2013, the use of this area by City residents and commercial businesses accounts for approximately three percent of reported diversion.

*Facts and Observations:*

- The City has reported having 478 commercial solid waste collection accounts. Of these, approximately 45 commercial businesses (excluding the prison) subscribe to recycling services. This is a participation rate of 9.4 percent.
- The commingled recycle loads from Wasco were mixed with a multitude of stops from outside of the City. Due to this, JCU staff did not observe the recyclables transported to the MRFs. JCU staff evaluated the businesses' recyclables in the recycling bins. This evaluation found low contamination.
- The level of waste collection service varies upon an account's needs. The City reports and JCU staff observed 300-gallon containers and three to four cubic yard waste bins at different businesses throughout the City. JCU staff observed approximately 35 percent recyclables in waste bins.

- JCU staff observed commercial waste loads at the Shafter-Wasco Landfill containing approximately 35 percent recyclables.
- In 2013, the City put out a Request for Proposal (RFP) for the collection of commercial recyclables. The City reported that the RFP combining recycling and green waste was not feasible.
- In 2014, the City put out another RFP for the collection of recyclables including commercial (and residential). The RFP would have expanded the commercial services implementing the City's mandatory commercial recycling ordinance. However, the City was not able to execute this RFP. In December 2015, the City told JCU staff that they would no longer be pursuing a RFP for the collection of commercial recyclables.
- In August/September 2015, American Refuse became the City's sole provider of commercial recycling services. JCU staff's follow-up analysis has found that the services described above are continuing at the same levels.

#### *Wasco State Prison*

Wasco State Prison is one of the largest commercial waste generators in the City. JCU staff conducted a limited review of the waste generated and disposed. The prison has multiple recycling efforts in place, such as cardboard and organic materials. The prison has reported they are continuing to look for more ways to divert materials from disposal. Waste loads observed at the Shafter-Wasco Landfill found the loads to contain little to no recyclables.

#### *Conclusions:*

*Participation in the City's mandatory commercial recycling program has been reported to be 9.4 percent. JCU staff's visual observations of the businesses participating have little contamination. Waste bins and loads observed contained 35 percent recyclables, as represented in the photo report (Attachment 3). The City is not implementing or enforcing its ordinance requiring commercial recycling.*

#### *Mandatory Commercial Recycling (MCR)*

##### *About the Program:*

The City's commercial recycling program is mandatory (as outlined in the City's Ordinance Section 8.12.802 Commercial Recycling) and is provided the same types of services outlined in the Commercial Diversion Program above. The City has developed and provided to CalRecycle an MCR plan detailing how the City will conduct education and outreach, identification, monitoring, and reporting of compliant and non-compliant businesses and multi-family complexes.

*Facts and Observations:*

- The City reports servicing 478 commercial accounts for solid waste collection with approximately 45 business, excluding the prison, participating in the City's commercial recycling program.
- Not all of the 478 commercial accounts meet the MCR definition. JCU staff's analysis of available data suggests that 183 businesses generate four cubic yards or more of solid waste per week, thus meeting the definition of MCR for purposes of complying with PRC 42649.2, et al.
- Additionally, JCU staff's analysis of available data suggests that there are 13 multifamily residential dwellings of five units or more. As outlined in PRC section 42649.2, businesses and multi-family complexes meeting the criteria specified fall within the MCR mandates. Additional discussion of the multifamily recycling diversion efforts follows.
- To date, the City has not reported to the Department its efforts in achieving the requirements of the MCR law including education and outreach, identification, monitoring, and if applicable, enforcement efforts.
- In 2013, the City put out a Request for Proposal (RFP) for the collection of commercial recyclables, residential recyclables and green waste collection (commercial and residential). However, the City reported that the RFP combining recycling and green waste was ultimately determined unfeasible.
- In 2014, the City put out another RFP which included the collection of commercial recyclables in addition to providing the required education and tracking of businesses and multifamily complexes, as required within the MCR law. The City was not able to execute this RFP. In December 2015, the City told JCU staff that they would no longer be pursuing a RFP for the collection of commercial recyclables.
- In November 2014, as part of LAMD's review of the 2013 Electronic Annual Report (EAR), LAMD sent a letter to the City requesting additional information regarding the City's efforts with MCR implementation. The City responded that the unsuccessful awarding of the above mentioned RFP was impacting MCR implementation efforts. The City outlined some of the RFP components which require the successive contractor to provide education, tracking of businesses not recycling, and tracking of multifamily complexes that fall within the MCR requirements. The City also clarified that until their RFP process was completed, additional information was unavailable (Attachment 4).

*Conclusions:*

*As of the preparation of this report, JCU staff has not received any data from the City demonstrating that it is implementing their Mandatory Commercial Recycling Plan and/or that it is meeting the requirements of the MCR law*

*including, but not limited to: reporting, education and outreach, identifying, monitoring, or enforcement efforts. The City has stated that this information will not be available until the City releases another RFP.*

### Multi-Family Diversion Efforts

#### *About the Efforts:*

Although multi-family diversion is not a specific reportable program within the Electronic Annual Report (EAR), JCU staff undertake an analysis of the multi-family diversion efforts. This analysis looks at the efforts taken to include this portion of the community into the overall recycling programs. It also looks to understand what, if any, impacts multi-family complexes have on a jurisdiction's residential and commercial recycling programs.

With regards to the City's efforts, JCU staff found the majority of multi-family complexes are serviced on commercial routes and fall under the City's mandatory commercial recycling program. Multi-family complexes have equal opportunity to request the recycling services outlined in the commercial diversion program. Recycling services ranged from 90-gallon recycle carts three yard bins.

#### *Facts and Observations:*

According to the 2010 U.S. Census, the City's housing units in multi-unit structures is 19.5 percent, compared to the State average of 30.9 percent.

- Out of the 13 complexes observed by JCU staff, only two have recycling opportunities.
- The two multi-family complexes began subscription to recycling services through Sunset Waste in Spring 2015. Through field visits, JCU staff observed the following:
  - Complex "A" has two 90-gallon recycle carts accompanying the waste bins. JCU staff observed very little use of the recycle carts and observed contamination within the recycle carts.
  - Complex "B" has a three cubic yard recycle bin accompanying the waste bin. At this complex, the recycle bin contained well-sorted recyclables.
- Waste collection services included three and four cubic yard bins.
- Waste bins at multi-family complexes contained approximately 30 percent divertible materials (recyclables and green waste).
- Since multi-family complexes are serviced on the same routes as commercial businesses, JCU staff was unable to discern waste from multi-family complexes separately from those collected from commercial businesses at the landfill.

- At several multi-family complexes, JCU staff observed waste bin enclosures to have room for the addition of recycle bin(s).
- In August/September of 2015, American Refuse became the City's sole provider of commercial recycling services. JCU staff's follow-up analysis has found that the services described above are continuing at the same levels.

*Conclusions:*

*Of the 13 complexes required to have recycling under MCR law, only two had recycling opportunities. Multi-family complexes without recycling opportunities contained relatively high levels (30 percent) of divertible materials. JCU staff did find that a majority of the complexes in the City have room to accommodate the addition of a recycling bin in pre-existing enclosures.*

*Construction and Demolition (C&D) Debris Diversion Program*

*About the Program:*

The City has a C&D debris recycling ordinance (Section 8.12.804). The City's ordinance mirrors the requirements established by CalGreen, including, but is not limited to requiring the submittal of a C&D diversion plan. The required plan outlines how diversion of 50 percent of materials from disposal is achieved.

*Facts and Observations:*

- In April 2014, JCU staff met with the building department and public works regarding C&D debris. At the time, there was not an established C&D debris diversion tracking system that required submittal of weight tickets or verified the diversion of materials.
- In June 2014, the City modified the permitting process and implemented a requirement for projects to submit a Construction & Demolition Waste Management Plan (CWM), which includes the requirements outlined in the CalGreen code adopted at that time.
- According to the City, the CWM is not required to be submitted prior to permit issuance. The City utilizes the honor system and entrusts contractors and residents to fill out the forms honestly and with no intent to deceive. The City provided JCU staff with finalized permit packets in which many permit applicants voluntarily provided weight tickets with the submission of their final paperwork.

*Conclusions:*

*The City's C&D debris diversion program has been enhanced over the course of the review. The City could see an added benefit from requiring documentation and then verifying the diversion of materials from disposal.*

## Green Waste Diversion Program

### *About the Program:*

**On-Site Collection-** The City has mandatory separation and collection of green waste for everyone within the city, as stated under Municipal Code 8.12.203. On the City's Annual Report, the City reports having both a residential and commercial green waste program.

Residentially, the City reports providing all residential accounts with a 90-gallon carts for the collection of green waste, which is collected weekly. Materials accepted include grass and leaves. Commercially, no bins are provided for the collection of green waste.

**Self-Haul-** At the Wasco-Shafter Landfill, there is a diversion area for green waste. The diversion area has signage directing customers to the proper areas to unload their divertible materials. Based on reports from the City and County for 2013, the use of this area by City residents and commercial businesses accounts for approximately three percent of reported diversion.

### *Facts and Observations:*

#### **Residential Curbside**

- JCU staff was able to verify the residential green waste program through field observations. JCU staff observed an average set-out rate of approximately 40 percent.
- Early in JCU staff's review of the residential collection programs, the source separated green waste was being disposed in the landfill because of high contamination.
- In an effort to clean the green waste loads, the City sent out letters to residents, tagged carts, and followed up with phone calls to residents about the proper use of the green waste cart.
- While these efforts reduced contamination, it was not until the City worked with Kern County to implement a pilot program to process green waste through a star screen to remove contamination that effective diversion of green waste was achieved. There have been discussions of the possibility that, in the future, more equipment will be added to remove additional contamination and recover additional green waste.
- Green waste loads observed contained approximately 20 percent contamination, which includes trash and "overs." At the time this report was prepared, the City reported that "overs" include: large branches, lumber, and any other large materials that do not pass through the star screen. The "overs" are disposed because trash is mixed with them and there is no additional processing equipment for further recovery.

- Following implementation of the above, the City has reported and JCU staff has observed that approximately 85 percent of green waste collected is diverted after processing.

#### *Commercial On-Site Collection*

- The City reports having a commercial green waste pick-up program. JCU staff discovered this program is limited to green waste materials that are hauled by commercial landscapers servicing the City.
- Through field visits, JCU staff found commercial waste loads to contain minimal, if any, green waste.

**Self-Haul-** At the Wasco-Shafter Landfill, JCU staff observed a diversion area where clean green waste can be brought by self-haulers. Green waste loads mixed with waste are directed to the landfill for disposal.

#### *Conclusions:*

*The City's green waste program was ineffective at the beginning of the review. Over the course of the review, through education and outreach and the completion of the pilot program with the County's screening of the materials, the residential diversion of green waste is now effective. Further review of the commercial diversion of green waste is needed to fully understand the flow of the materials.*

#### *Schools Diversion Program*

##### *About the Program:*

There are six schools within the City. Five schools (K-8<sup>th</sup> grade) have commingled recycling services and Wasco Union High School has only cardboard recycling.

##### *Facts and Observations:*

- The five schools have an extensive recycling program in place for the collection of commingled recyclables. The cafeteria has multiple cans for the collection of divertible materials including: milk cartons, aluminum cans, glass, and plastic bottles. According to custodial staff, all classrooms contain recycle receptacles for the collection of commingled recyclables. School staff stated that they are always looking for ways to divert more material.
- Wasco Union High School recycle bins contained clean cardboard and chipboard. Aluminum cans, plastic bottles, glass, and tin cans are not diverted from disposal. Classrooms do not have recycle receptacles for the collection of paper and mixed recyclables.
- JCU staff followed up with both the High School and the hauler to clarify the materials that are recycled and accepted for recycling. Although commingled recycling services are available through the hauler, the high school only

subscribes to cardboard collection. All materials are sorted by the hauler, even with single stream recycling, to remove contamination.

- In August/September of 2015, American Refuse became the City's sole provider for the school's recycling services. JCU staff's follow-up analysis has found that the services described above are continuing at the same levels.

*Conclusions:*

*All schools have recycling bins on site. It is unclear why the elementary and junior high schools accept the variety of recyclables for diversion and the high school only focuses on cardboard. Additional review will be necessary to understand the overall program.*

Sludge Diversion Program

*About the Program:*

The City of Wasco has a 3 million gallon per day (MGD) capacity Wastewater Treatment Plant (WWTP). The average dry weather flow is 1.7 MGD. The WWTP is a secondary biological treatment process. The treated wastewater is used for farm irrigation on 700 acres of City property which is leased out to local farmers. The WWTP is operated by certified operators who also maintain over 38 miles of the sanitary sewer system.

*Facts and Observations:*

- PRC 41781.1 allows jurisdictions to divert sludge.
- The City has reported, most recently within the 2014 Electronic Annual Report, that the sludge generated by the WWTP is diverted. The City has reported, from 2011 to 2014, that an average of 684 tons of sludge are generated (yearly).
- JCU staff's review and follow-up inquires with the City discovered that the City's sludge is being disposed. According to the City, the sludge is taken to H.M. Holloway, located in Lost Hills.
- On average, this accounts for approximately 3.7 percent of the City's total annual disposal.

*Conclusions:*

*The City has misreported sludge as being diverted for at least the last 4 years. The City could have diverted, on the conservative side, an additional 3.7 percent of the City's annual disposal. Additional review is necessary to understand what is preventing the City from diverting this material.*



### Government Diversion Program

#### *About the Program:*

City offices subscribe to recycling services resulting in the collection of: paper, plastics, aluminum, glass, tin, plastic film, cardboard, and chipboard. The City is also implementing other diversion efforts including grass cycling and the reuse of C&D materials.

#### *Facts and Observations:*

- JCU staff observed that the recyclables were well-sorted and contained little contamination.
- The City reports the use of recycled concrete and asphalt as road base in City projects.
- In August/September of 2015, American Refuse became the City's sole provider of commercial recycling services. JCU staff's follow-up analysis has found that the services described above are continuing at the same levels.

#### *Conclusions:*

*The City's implementation of a full recycling program supports how similar efforts can be provided to the City's residents and businesses. The City's subscription to recycling services leads by example for the community for the diversion of materials.*

### Government Procurement

#### *About the Program:*

The *statutory requirements* are found in the Public Contract Code section 22150. In part, the law states:

"If fitness and quality are equal, each local public entity shall purchase recycled products, as defined in Section 12200, instead of non-recycled products whenever recycled products are available at the same or a lesser total cost than non-recycled items."

#### *Facts and Observations:*

- The City does not have a recycled content procurement policy.
- The City did report the purchasing of recycled content products; however, no verification of the reported information was provided.
- The City has reported they are developing a resolution and policy to further enhance the City's procurement of recycled content products.

#### *Conclusions:*

*Staff was not able to gather data to support the City's compliance with this law. The City's proposal to develop a procurement of recycled content products policy*

*could demonstrate the City's commitment to purchasing recycled content products when feasible. Additional review of the City's procurement efforts is necessary.*

### Education and Outreach

#### *About the Program:*

The *statutory requirements* for this program are found in the Public Resources Code section 41220. In part the law states:

“The city education and public information component (of the SRRE) shall describe... how the city will increase public awareness of, and participation in, recycling, source reduction, and composting programs.”

The City did comply with this requirement. Within the City's approved SRRE, the following are addressed:

- goals and objectives of this program;
- review of the existing conditions (at the time the SRRE was submitted);
- selection of alternatives;
- program principles;
- program implementation including short-term and long-term tasks;
- implementation schedule;
- budgeting;
- monitoring and evaluation, including criteria to use; and
- identification of contingency measures.

#### *Facts and Observations:*

JCU staff's review and analysis of the City's website and other available education and outreach materials found the following for several key programs.

- Residential Diversion Program
  - JCU staff could not find information regarding the residential diversion program (curbside recycling and self-haul).
  - With regards to waste collection, JCU staff found the City's 2015 and 2016 Waste Collection Calendar, Garbage Container letter, which clarifies the “trash” and “green waste” services.
  - The City's website includes links to CalRecycle and Kern County websites. However, the City has not clarified how the resources can be used to address residential recycling within the City. Also, the information available on either site is not specific to the City's programs and may not fully address a resident's questions.
    - CalRecycle's website is setup in a way that assists those interested in residential recycling; however, the information is limited with regards to specific recycling opportunities within Wasco.

- The Kern County website provides: Kern County CRV and other recyclable buyback locations, and Kern County household hazardous waste disposal guidelines.
  - The City reports that the Waste Watch Program continues to air on several television stations with information related to waste reduction and recycling programs and proper disposal practices. The City reported that this program provides general information for solid waste disposal, for all of Kern County, and is not specific to Wasco's residential program.
  - The City reports utilizing student volunteers to help educate the local population during recycling days, City cleanup events, and the annual Rose Festival.
- Commercial Diversion Program
  - JCU staff found the City's Business Recycling Flyer and Apartment Recycling Flyer. It is JCU staff's understanding that these materials are only available online and are not provided as brochures to businesses and apartments.
  - The City's website includes links to CalRecycle and Kern County websites. However, the City has not clarified how the resources can be used to address commercial recycling within the City. Also, the information available on either site is not specific to the City's programs and may not fully address a businesses' questions.
    - CalRecycle's website is setup in a way that assists those interested in commercial recycling; however, the information is limited with regards to specific recycling opportunities within Wasco.
    - The Kern County website provides: Kern County CRV and other recyclable buyback locations.
  - The City reports that the Waste Watch Program continues to air on several television stations with information related to waste reduction and recycling programs and proper disposal practices. The City reported that this program provides general information for solid waste disposal, for all of Kern County, and is not specific to Wasco's commercial program.
- Mandatory Commercial Recycling (MCR) Program
  - JCU staff found the City's Commercial Recycling Plan and Frequently Asked Questions (which outlines the MCR law) posted on the City's website.
  - Staff was not able to verify that any of the education, outreach, and monitoring, written into the City's plan, has been implemented.

- The City's website includes links to CalRecycle and Kern County websites. However, the City has not clarified how the resources can be used to address MCR within the City. Also, the information available on either site is not specific to the City's programs and may not fully address a businesses' questions.
  - CalRecycle's website is setup in a way that assists those with regard to MCR; however, the information is limited with regards to specific recycling opportunities within Wasco.
  - The Kern County website provides: Kern County CRV and other recyclable buyback locations.
- Multi-Family Diversion Efforts
  - Sunset Waste had made direct telephone contact with multi-family complex managers in the City to encourage subscription to recycling services.
  - With Sunset Waste discontinued services in Wasco, JCU staff have been working with the City and American Refuse to become informed of the current status of the education and outreach efforts for this sector. However, as of the preparation of this report, the City has not provided any clarification on what additional efforts have been taken.
  - The City's website includes links to CalRecycle and Kern County websites. However, the City has not clarified how the resources can be used to address residential, commercial, or MCR within the City. Also, the information available on either site is not specific to the City's programs and may not fully address a businesses' questions.
    - CalRecycle's website is setup in a way that assists those with regard to residential, commercial, or MCR; however, the information is limited with regards to specific recycling opportunities within Wasco.
    - The Kern County website provides: Kern County CRV and other recyclable buyback locations.
  - The City reports that the Waste Watch Program continues to air on several television stations with information related to waste reduction and recycling programs and proper disposal practices. The City reported that this program provides general information for solid waste disposal, for all of Kern County, and is not specific to Wasco's multi-family efforts.
- C&D Debris Diversion Program
  - The City hands out a memo regarding the current CalGreen requirements and has contact information for the City's franchise C&D debris hauler to all that apply for construction permits.

- Green Waste Diversion Program
  - Early in JCU staff's review, the City was made aware of contamination issues within the residential green waste program. In an effort to decrease contamination, the City distributed letters to residents to educate them on the proper materials that can be placed in green waste carts. Contaminated carts are tagged and City staff followed up with phone calls to educate residents on the proper materials to recycle within green waste carts.
  - The City did not report an exact number of carts that were tagged, but did note that the number of carts that were tagged dropped over time.
  - JCU staff is not aware of any additional education and outreach materials that are provided since the implementation of the star screen.
- Schools Diversion Program
  - The City reports collaboration with Kern County to promote recycling through the Clean Kids Hit the Road puppet show. This is a puppet show put on for students by students. Kern County also promotes "Trash to Treasure Workshops" at summer camps in the City. These workshops teach children the types of materials, that are recyclable, that can be encountered on a regular basis through the creation of art projects.
- Government Diversion Program
  - The City reported they currently do not have any recycling education and outreach materials developed for this effort. The City states that this is planned for future implementation.

*Conclusions:*

*City-specific education and outreach materials are not reflective of the City's diversion programs. The lack of education and outreach is likely having a direct impact on the participation rates in the City's diversion programs.*

**Communications and Notification History**

April 11, 2013, LAMD notified the City that an independent review of the City's waste management programs was necessary (Attachment 1).

April 15, 2013, JCU staff initiated the 60-day conferring process required by PRC Section 41825 (Attachment 2).

February 24, 2015, the City wrote a letter to the Department regarding the City's AB 939 Compliance and self-evaluation of their waste diversion programs (Attachment 5).

March 17, 2015, JCU staff sent a response letter to the City's AB 939 Compliance and self-evaluation of their waste diversion programs addressing the City's concerns about the Department's waste diversion program review (Attachment 6).

September 15, 2016, the Department mailed the 30-Day Notice of Intent to Issue the City of Wasco a Compliance Order for Failure to Adequately Implement its Source Reduction and Recycling Element (Attachment 7).

September 19, 2016, the City called to acknowledge receipt of the 30-Day Notice of Intent to Issue the City of Wasco a Compliance Order for Failure to Adequately Implement its Source Reduction and Recycling Element and requested to change the date of the hearing due to a conflict with an existing City Council meeting. In response to the request, CalRecycle moved the public hearing from October 18, 2016 to November 9, 2016.

### **Findings**

During the conferring period, which began on April 15, 2013, JCU staff reviewed the City's SRRE-selected programs and found that the City has not fully implemented several of its key diversion programs. Through information gathered and observations, JCU staff has identified gaps or weaknesses in the City's diversion programs, including, but not limited to:

- Residential Diversion program
- Commercial Diversion program (including the multi-family diversion efforts)
- Mandatory Commercial Recycling
- Education and Outreach efforts related to these and other City programs and efforts
- Government Procurement

Although the City met its per capita disposal rate, as reflected in Table 1 above, this is only a factor to be considered when evaluating the City's program implementation, and is not determinative of compliance. Based on a thorough review of the City's diversion programs, JCU staff believes the City has not demonstrated that it has adequately implemented its SRRE to achieve the diversion requirements of PRC Section 41780. Additionally, the City has not complied with the MCR law requirements of PRC 42649, et al., which became effective on July 1, 2012. Therefore, JCU staff recommends that the Department find the City of Wasco has not adequately implemented its SRRE and the MCR law, and approve the attached Compliance Order as written.

The proposed Compliance Order CO 016-001 (Attachment 7) includes the following conditions and implementation schedule:

- The City shall work with Department staff to determine SRRE and MCR gaps in program areas and develop a Local Implementation Plan (LIP) to improve, expand, or implement new diversion programs.
- The City shall develop and submit to the Department a fully executed LIP by April 28, 2017.
- The City will fully implement the programs in the LIP by April 30, 2018.
- A monitoring/"oversight" period of one year (May 1, 2018 through April 30, 2019).

The Department uses this time to ensure the City's continued implementation of the programs identified in the LIP.

- The City will submit quarterly status reports based on the calendar year. These status reports shall use the Department's electronic, quarterly reporting format. The City will also attach any required reports necessary to support their efforts to implement the LIP and Compliance Order.

The Compliance Order requires the Department to hold a public hearing following the term of the compliance schedule to determine whether or not the City has complied with all of the conditions of the Compliance Order.

The Compliance Order specifies that if, at any time, the City of Wasco fails to comply with any part of the Compliance Order, it may result in an earlier public hearing and fines of up to \$10,000 per day. Likewise, a public hearing could be scheduled earlier if the City complies with the Compliance Order ahead of schedule.

#### **Options for Consideration**

1. Find that the City is not adequately implementing its SRRE and not complying with the MCR law and,
  - a. Approve the attached Compliance Order as written, or
  - b. Approve the attached Compliance Order with alternate or additional language or conditions.
2. Find that the City is not adequately implementing its SRRE but is adequately complying with the MCR law. Direct staff to amend the attached Compliance Order to address only SRRE program implementation, and /or incorporating alternate or additional conditions.
3. Find that the City is adequately implementing its SRRE and not complying with the MCR law. Direct staff to amend the attached Compliance Order to address only MCR program implementation and/or incorporating alternate or additional conditions.
4. Find that the City is adequately implementing its SRRE and is in compliance with the MCR law and not issue the attached Compliance Order.

#### **Department Staff Recommendation**

Department staff recommends Option 1: Find that the City is not adequately implementing its SRRE and is not complying with the MCR law. Department staff further recommends approval of the attached Compliance Order as written.

#### **IV. ATTACHMENTS**

1. April 11, 2013 Notification that an Independent Review of the City of Wasco's Waste Management Programs was Necessary
2. April 15, 2013 Notification Initiating the 60-day Conferring Process Required by PRC Section 41825(c)

3. Photo Report for the City of Wasco
4. November 19, 2014 Letter from the City regarding the 2013 Electronic Annual Report (EAR) Review
5. February 24, 2015 Letter from City Regarding the City's AB 939 Compliance and Self-Evaluation of the City's Waste Diversion Programs
6. March 17, 2015 Department Response Letter to the City Regarding the City's AB 939 Compliance and Self-Evaluation of the City's Waste Diversion Programs
7. September 15, 2016 30-Day Notice of Intent to Issue the City of Wasco a Compliance Order for Failure to Adequately Implement its Source Reduction and Recycling Element
8. Proposed Compliance Order CO 016-001
9. Request for Action for Consideration of the Issuance of Compliance Order CO 016-001 to the City of Wasco

**V. STAFF RESPONSIBLE FOR ITEM PREPARATION**

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